

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

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RONALD ALLEN SMITH,

CV 86-198-M-CCL

Petitioner,

-v-

ORDER

MICHAEL MAHONEY, Warden,  
Montana State Prison,

Respondent.

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Before the Court is Petitioner's Motion for Certificate of Appealability ("COA"). Responded opposes issuance of the COA.

Petitioner asserts that a COA should issue on all his claims, but Petitioner specifically notes that his claims

pertaining to the Montana District Court's singling out the testimony of Dr. William Stratford in its findings of fact, to the exclusion of all of the other mental health experts who testified at the Petitioner's sentencing hearings and the Court's further discussing this case with the media while it was still pending before the court are clearly debatable among jurists of reason, and the Petitioner respectfully requests that this Court grant a Certificate of Appealability on all of these claims.

Petitioner's Motion for COA at 3. Petitioner further claims that

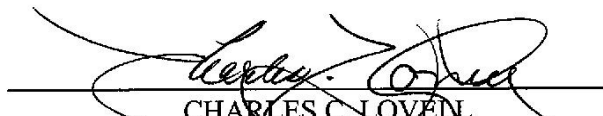
the retroactivity of *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and *Blakely v. Washington*, 542 U.S. 296 (2004), is "clearly debatable among jurists of reason." Petitioner's Motion for COA at 3. At best, Petitioner has merely shown his good faith and absence of frivolity in making these arguments, not that the resolution of his claims are debatable among jurists of reason.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's Motion for Certificate of Appealability (Docket #182) is DENIED.

The Clerk is directed forthwith to notify counsel of entry of this order.

Done and dated this 14th day of June, 2007.

  
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CHARLES C. LOVELL  
SENIOR UNITED STATES DISTRICT JUDGE